

State of Wyoming



Department of Health

Chapter 2 Information Practices Processing and Fee Schedules for Public Record Requests

**Brent D. Sherard, M.D., M.P.H.
Director and State Health Officer**

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Brent D. Sherard, M.D., M.P.H., Director and State Health Officer

Additional information and copies may be obtained from:
De Anna Greene, CIPP/G/IT, HIPAA Compliance Officer
Office of the Director
401 Hathaway Building
2300 Capitol Avenue
Cheyenne, WY 82002
Telephone: (307) 777-8664
Fax: (307) 777-7439
deanna.greene@health.wyo.gov

This document is available in alternative format upon request.

Chapter 2. Information Practices – Processing and Fee Schedules for Public Record Requests

Intent to Adopt Rules

Statement of Reasons

The Wyoming Department of Health proposes to adopt the following New Rule in accordance with W.S. § 16-4-201, *et seq.*

The Department is promulgating this New Rule, due to the significant increase in the quantity, size and costs for public record requests submitted to the Wyoming Department of Health.

The Rule will establish a procedure to ensure all public record requests received by the Wyoming Department of Health are handled in a prompt and consistent manner to protect personally identifiable information entrusted to the Wyoming Department of Health.

W.S. § 16-4-201, *et seq.*, provides that public records are open for inspection by any person, provided the request is in accordance with law. This New Rule entitled, “Information Practices – Processing and Fee Schedules for Public Record Requests,” meets minimum substantive state statutory requirements for the protection of personally identifiable information. A synopsis of the New Rule follows:

Section 1. Authority. Identifies the current authority to promulgate rules for processing public record requests and allowing for a fee schedule.

Section 2. Applicability. Establishes what the rule applies to and the responsibility of the Department.

Section 3. Definitions. Identifies and provides definitions currently utilized within federal and state law and regulation concerning public record requests and fees.

Section 4. Fees. Identifies the reasonable costs associated with making a public record available.

Section 5. Fee Schedule. Establishes a fee schedule for the cost of making public records available and requires the review and update of those fees to reflect current and accurate costs associated with making information available.

Section 6. Notification. Establishes a process by which the Department shall notify individuals of associated costs and payment requirements and reduction or fee waiver processes prior to processing a public record request.

This Rule is intended to improve the efficiency and effectiveness of the Wyoming Department of Health by providing enhanced protections for personally identifiable

information. These protections will address growing public concerns with regard to balancing personal privacy and public access, which, without adequate protections, could result in a substantial erosion of the privacy surrounding personally identifiable information maintained by Wyoming Department of Health.

This New Rule is designed to protect and enhance Wyoming Department of Health's protection of consumers by providing a process for public record requests and controlling the inappropriate access to protected information.

INFORMATION PRACTICES
PROCESSING AND FEE SCHEDULES FOR PUBLIC RECORDS REQUESTS

CHAPTER 2

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CHAPTER 2

INFORMATION PRACTICES

Processing and Fee Schedules for Public Records Requests

Section 1. Authority. These rules are promulgated by the Department of Health pursuant to the Wyoming Public Records Act (W.S. § 16-4-201, *et seq.*), and the Wyoming Administrative Procedure Act (W.S. § 16-4-201, *et seq.*).

Section 2. Applicability.

(a) This Chapter shall apply to and govern access to public records held by the Wyoming Department of Health and its subagencies, unless any subagency is subject to duly enacted or adopted statute, rule, resolution, ordinance, executive order or other like authority directing that subagency to follow alternative procedures for access to public records.

(b) This Chapter establishes fees associated with providing copies of public records when requested. It is the intention of the Department to establish good practices in the handling of public record requests and to establish a process whereby an individual may have access to available records as authorized by the Wyoming Public Records Act (W.S. § 16-4-201, *et seq.*), and other applicable state and federal laws.

(c) The Wyoming Department of Health may issue policies, manuals, or bulletins to interpret the provisions of these rules and regulations. Such policies, manuals or bulletins shall be consistent with and reflect the principles contained in these rules and regulations. The provisions contained in policies, manuals, or bulletins shall be subordinate to the provisions of these rules and regulations.

(d) The incorporation by reference of any external standard is intended to be the incorporation of that standard as it is in effect on the effective date of these rules.

Section 3. Definitions. The following definitions apply in the interpretation and enforcement of these rules. Where the context in which words are used in these rules indicates that such is the intent, words in the singular number shall include the plural and vice versa. Throughout these rules, gender pronouns are used interchangeably, except where the context dictates otherwise. The drafters have attempted to utilize each gender pronoun in equal numbers, in random distribution. Words in each gender shall include individuals of the other gender.

(a) “Department” means the Wyoming Department of Health, its agent, designee, or successor.

(b) “Director” means the Director of the Department.

(d) “Photocopy(ing)” means a photograph, microphotograph, or any other reproduction on paper or film in any scale or the process of reproducing in the form of a photocopy of a public record.

(e) “Public record,” unless otherwise specified, includes the original and copies of any paper, correspondence, form, book, photograph, photostat, film, microfilm, sound recording, map, drawing, or other document, regardless of physical form or characteristics, that have been made by the State of Wyoming and any counties, municipalities, and political subdivisions thereof, and by any agencies of the state, counties, municipalities and political subdivisions thereof, or received by them in connection with the transaction of public business, except those privileged or confidential as provided by law.

(f) “Requestor” means a person requesting access to, copies of, or other similar type of reproduction of a public record.

Section 4. Fees.

(a) The Department may charge a fee reasonably calculated to reimburse the Department for the cost of copying public records.

(i) Costs include, but are not limited to:

(A) The services and supplies used in making the records available;

(B) The time spent locating the requested records, reviewing the records, and redacting, or separating material exempt from disclosure;

(C) The time spent supervising a person’s inspection of documents;

(D) The time spent copying records;

(E) The time spent certifying copies of records;

(F) The time spent summarizing, compiling, or organizing the public records to meet the person’s request;

(G) The time spent searching for and reviewing records, even if the records subsequently are determined to be exempt from disclosure;

(H) Postal and freight charges for shipping the copies of the public records, sent first class or bulk rate based on weight;

(I) Indirect costs or third party charges associated with copying and preparing the public records; and

(J) Costs associated with electronic retrieval of records.

(b) Staff time will be calculated based on the hourly rate of pay and fringe benefits for the position of the person performing the work. At the discretion of the Department and available staffing, every effort will be made to keep this cost at a minimum.

(c) The cost for publications will be based on the actual costs of development, printing and distribution, as determined by the Department.

Section 5. Fee Schedule.

(a) The following fees shall apply for each public record request. The following fees represent the most frequently requested formats for information.

(i) Fees – General.

(A) No charge to provide an estimate of costs to prepare record for distribution.

(B) No charge for the first thirty (30) minutes of staff time.

(C) Staff time shall be charged after the first thirty (30) minutes, in increments of fifteen (15) minutes.

(D) Cost for actual duplication of the records.

(ii) Duplication of Records.

(A) Single-side printed or photocopied pages.

(I) No charge for the first ten (10), single-side printed or photocopied pages.

(II) Each single-side printed or photocopied page after the first ten (10), single-sided pages shall be charged at twenty-five cents (\$0.25) per page.

(B) Double-side printed or photocopied pages.

(I) No charge for the first five (5), double-side printed or photocopied pages.

(II) Each double-side printed or photocopied page after the first five (5), double-sided pages shall be charged at fifty cents (\$0.50) per page.

(C) Other media types.

(I) Actual cost of materials shall be charged for producing information on other media types, including, but not limited to: audio tape, video tape, CD, DVD, microfilm, magnetic tape, or other media not listed.

(D) Fees for information requested in formats other than those listed shall be determined on a case-by-case basis.

(iii) Delivery of Record.

(A) On-site delivery.

(I) There shall be no charge for records picked up at the location where the records exist.

(B) Facsimile.

(I) There shall be a charge of thirty cents (\$0.30) for each page faxed.

(C) Mail or Other Delivery Service.

(I) The actual cost of mailing or shipping materials shall be charged.

(b) The Department shall periodically review the list of fees in order to assure that the fees reflect current Department costs.

(c) The Department shall not charge an additional fee for providing records or documents in an alternative format when required by the Americans with Disabilities Act or other federal or state law.

Section 6. Notification.

(a) The Department will notify requestors of the estimated fees for making the public records available for inspection or for providing copies to the requestor. If the estimated fees exceed twenty-five dollars (\$25.00), the Department will provide written notice and will not act further to respond to the request until the requestor notifies the Department, in writing, to proceed with making the records available. The Department may require that all or a portion of the estimated fees be paid before proceeding with making the record available.

(b) The Director or designee may reduce or waive fees when a determination is made that the waiver or reduction of fees is in the public interest, or otherwise benefits the general public. Factors that may be taken into account in making such a determination include, but are not limited to:

(i) The overall costs to be incurred by the Department;

(ii) Supplying the requested records or documents is related to the normal scope of Department activity;

(ii) Requiring payment would cause extreme or undue financial hardship upon the requestor; or

(iii) Discovery requests made as part of pending administrative, judicial, or arbitration proceedings.